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HOUSE BILL 783

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Rodolpho "Rudy" S. Martinez

AN ACT

RELATING TO TAXATION; AUTHORIZING AN INCREASED RATE OF  
OCCUPANCY TAX FOR CERTAIN MUNICIPALITIES; RESTRICTING THE USE  
OF THE INCREASE IN OCCUPANCY TAX TO ARTS AND CULTURAL DISTRICT  
FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-38-15 NMSA 1978 (being Laws 1969,  
Chapter 199, Section 3, as amended) is amended to read:

"3-38-15. AUTHORIZATION OF TAX--LIMITATIONS ON USE OF  
PROCEEDS.--

A. A municipality may impose by ordinance an  
occupancy tax for revenues on lodging within the municipality,  
and the board of county commissioners of a county may impose by  
ordinance an occupancy tax for revenues on lodging within that  
part of the county outside of the incorporated limits of a

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1 municipality.

2 B. The occupancy tax shall not exceed five percent  
3 of the gross taxable rent, except in a municipality that  
4 includes within its boundaries a state-designated arts and  
5 cultural district created pursuant to the Arts and Cultural  
6 District Act. In a municipality that includes a  
7 state-designated arts and cultural district, the rate of the  
8 occupancy tax imposed shall not exceed seven percent of the  
9 gross taxable rent. The revenue generated from the occupancy  
10 tax increment imposed in excess of five percent of gross  
11 taxable rents shall be used solely for the purposes of cultural  
12 development and heritage tourism activities located within the  
13 state-designated arts and cultural district.

14 C. Every vendor who is furnishing any lodgings  
15 within a municipality or county is exercising a taxable  
16 privilege.

17 D. The following portions of the proceeds from the  
18 occupancy tax shall be used only for advertising, publicizing  
19 and promoting tourist-related facilities and attractions  
20 [~~facilities~~] and tourist-related events:

21 (1) if the municipality or county imposes an  
22 occupancy tax of no more than two percent, not less than  
23 one-fourth of the proceeds shall be used for those purposes;

24 (2) if the occupancy tax imposed is more than  
25 two percent and the municipality is not located in a class A

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1 county or the county is not a class A county, not less than  
2 one-half of the proceeds from the first three percent of the  
3 occupancy tax and not less than one-fourth of the proceeds from  
4 the occupancy tax in excess of three percent shall be used for  
5 those purposes; and

6 (3) if the occupancy tax imposed is more than  
7 two percent and the municipality is located in a class A county  
8 or the county is a class A county, not less than one-half of  
9 the proceeds from the occupancy tax shall be used for those  
10 purposes.

11 E. The proceeds from the occupancy tax in excess of  
12 the amount required to be used for advertising, publicizing and  
13 promoting tourist-related facilities and attractions  
14 [~~facilities~~] and tourist-related events may be used for any  
15 purpose authorized in Section 3-38-21 NMSA 1978.

16 F. The proceeds from the occupancy tax that are  
17 required to be used to advertise, publicize and promote  
18 tourist-related facilities and attractions [~~facilities~~] and  
19 tourist-related events shall be used within two years of the  
20 close of the fiscal year in which they were collected and shall  
21 not be accumulated beyond that date or used for any other  
22 purpose.

23 G. Notwithstanding the provisions of Paragraph (2)  
24 of Subsection D of this section, any use by a municipality or  
25 county of occupancy tax proceeds on January 1, 1996 may

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1 continue to be so used after July 1, 1996 in accordance with  
2 the provisions of this section and Section 3-38-21 NMSA 1978 as  
3 they were in effect prior to July 1, 1996; provided, any change  
4 in the use of those occupancy tax proceeds after July 1, 1996  
5 is subject to the limitations of that paragraph.

6 H. Notwithstanding the provisions of Paragraph (2)  
7 of Subsection D of this section, the payment of principal and  
8 interest on outstanding bonds issued prior to January 1, 1996  
9 pursuant to Section 3-38-23 or 3-38-24 NMSA 1978 shall be made  
10 in accordance with the retirement schedules of the bonds  
11 established at the time of issuance. The amount of  
12 expenditures required under Paragraph (2) of Subsection D of  
13 this section shall be reduced each year, if necessary, to make  
14 the required payments of principal and interest of all  
15 outstanding bonds issued prior to January 1, 1996."

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